

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 588

Introduced by Senator Rainey

February 23, 1999

An act to amend ~~Section 11350.1 of, and to repeal and add Section 11350 of Sections 11350 and 11350.1 of, and to add Section 11477.03 to,~~ the Welfare and Institutions Code, relating to support.

LEGISLATIVE COUNSEL'S DIGEST

SB 588, as amended, Rainey. Support obligations to CalWORKs recipients.

Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families.

Existing law requires that in any case of separation or desertion of a parent or parents from a child or children that results in the granting of CalWORKs benefits, the noncustodial parent or parents shall be obligated to the county for an amount equal to the amount specified in an order for the support and maintenance of the family issued by a court of competent jurisdiction ~~or, in~~. *In the absence of an order, the noncustodial parent or parents would be liable for the amount of support that would have been specified in such an order.*

~~This bill would repeal this requirement, provided that any such amount in excess of the aid paid to the family under the~~

CalWORKs program shall not be retained by the county, but disbursed to the family.

This bill would further provide that liability of a noncustodial parent or parents under this provision would commence only upon the filing of the complaint or other pleading initiating the support action.

Existing law requires that, as a condition of CalWORKs eligibility, the applicant assign to the county any rights to support which he or she may have from another person, either in his or her own behalf or in In behalf of any other family member.

This bill would permit the district attorney and a support obligor, in any action in which support has been assigned to the county by ~~an~~ a CalWORKs recipient, to stipulate to an order that suspends the accrual of interest, subject to the meeting of specified conditions.

Existing law provides that, in any action brought by the district attorney for the support of a minor child or children receiving CalWORKs benefits, the action may be prosecuted in the name of the county on behalf of the child, children, or a parent of the child or children. Under existing law, judgment in an action brought pursuant to these provisions may be rendered pursuant to a noticed motion.

This bill would further provide that a support order made pursuant to the above provisions may be retroactive to the date of filing of the complaint or other initial pleading.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 11350 of the Welfare and~~
- 2 ~~Institutions Code is repealed.~~
- 3 ~~SEC. 2. Section 11350 is added to the Welfare and~~
- 4 ~~Institutions Code, to read:~~
- 5 ~~11350. (a) In any action where support has been~~
- 6 ~~assigned pursuant to Section 11477, the district attorney~~
- 7 ~~and the obligor may stipulate to an order that suspends~~
- 8 ~~the accrual of interest, subject to all of the following~~
- 9 ~~conditions:~~

1 ~~(1) The obligor shall be required to make immediate~~
2 ~~payment of all outstanding, unassigned child support~~
3 ~~arrearages.~~

4 ~~(2) The obligor shall be required to make specified~~
5 ~~monthly payments toward assigned child support~~
6 ~~arrearages, with each monthly payment to be not less~~
7 ~~than 2 percent of all assigned support owed by the obligor~~
8 ~~at the time the agreement is made.~~

9 ~~(3) The obligor shall be required to meet all current~~
10 ~~child support payment obligations.~~

11 ~~(b) If an obligor who is a party to an agreement~~
12 ~~entered into pursuant to subdivision (a) fails to meet any~~
13 ~~of the conditions required by that agreement, interest~~
14 ~~shall begin to accrue on any outstanding support~~
15 ~~obligations.~~

16 ~~SEC. 3.—~~

17 *SECTION 1. Section 11350 of the Welfare and*
18 *Institutions Code is amended to read:*

19 11350. (a) In any case of separation or desertion of a
20 parent or parents from a child or children which results
21 in aid under this chapter being granted to that family, the
22 noncustodial parent or parents shall be obligated to the
23 county for an amount equal to the following:

24 (1) The amount specified in an order for the support
25 and maintenance of such family issued by a court of
26 competent jurisdiction; or in the absence of such court
27 order, the amount specified in paragraph (2).

28 (2) The amount of support which would have been
29 specified in an order for the support and maintenance of
30 the family during the period of separation or desertion
31 provided that any such amount in excess of the aid paid
32 to the family shall not be retained by the county, but
33 disbursed to the family *and further provided, however,*
34 *that the liability of a noncustodial parent or parents under*
35 *this paragraph shall commence only upon the filing of the*
36 *complaint or other pleading initiating the action.*

37 (3) The obligation shall be reduced by any amount
38 actually paid by such parent directly to the custodian of
39 the child or to the district attorney of the county in which
40 the child is receiving aid during the period of separation

1 or desertion for the support and maintenance of the
2 family.

3 (b) The district attorney shall take appropriate action
4 pursuant to this section as provided in subdivision (l) of
5 Section 11475.1. The district attorney may establish
6 liability for child support as provided in subdivision (a)
7 when public assistance was provided by another county
8 or by other counties.

9 (c) The amount of the obligation established under
10 paragraph (2) of subdivision (a) shall be determined by
11 using the appropriate child support guidelines currently
12 in effect. ~~If one parent remains as a custodial parent, the~~
13 ~~guideline support shall be computed in the normal~~
14 ~~manner. If neither parent remains as a custodial parent,~~
15 ~~the support shall be computed by combining the~~
16 ~~noncustodial parents' incomes and placing the figure~~
17 ~~obtained in the column for noncustodial parent. A zero~~
18 ~~shall be placed in the column for the custodial parent and~~
19 ~~the amount of guideline support resulting shall be~~
20 ~~proportionately shared between the parents as directed~~
21 ~~by the court.~~ The parents shall pay the amount of support
22 specified in the support order to the district attorney.

23 *SEC. 2.* Section 11350.1 of the Welfare and Institutions
24 Code is amended to read:

25 11350.1. (a) Notwithstanding any other statute, in
26 any action brought by the district attorney for the support
27 of a minor child or children, the action may be prosecuted
28 in the name of the county on behalf of the child, children,
29 or a parent of the child or children. The parent who has
30 requested or is receiving support enforcement services of
31 the district attorney shall not be a necessary party to the
32 action but may be subpoenaed as a witness. Except as
33 provided in subdivision (e), in an action under this
34 section there shall be no joinder of actions, or
35 coordination of actions, or cross-complaints, and the
36 issues shall be limited strictly to the question of parentage,
37 if applicable, and child support, including an order for
38 medical support. A final determination of parentage may
39 be made in any action under this section as an incident to
40 obtaining an order for support. An action for support or

1 parentage pursuant to this section shall not be delayed or
2 stayed because of the pendency of any other action
3 between the parties.

4 (b) Judgment in an action brought pursuant to this
5 section, and in an action brought pursuant to Section
6 11350, if at issue, may be rendered pursuant to a noticed
7 motion, that shall inform the defendant that in order to
8 exercise his or her right to trial, he or she must appear at
9 the hearing on the motion. An order for support made
10 pursuant to this section may be retroactive to the date of
11 filing of the complaint or other initial pleading.

12 If the defendant appears at the hearing on the motion,
13 the court shall inquire of the defendant if he or she desires
14 to subpoena evidence and witnesses, if parentage is at
15 issue and genetic tests have not already been conducted
16 whether he or she desires genetic tests, and if he or she
17 desires a trial. If the defendant's answer is in the
18 affirmative, a continuance shall be granted to allow the
19 defendant to exercise those rights. A continuance shall
20 not postpone the hearing to more than 90 days from the
21 date of service of the motion. If a continuance is granted,
22 the court may make an order for temporary support
23 without prejudice to the right of the court to make an
24 order for temporary support as otherwise allowed by law.

25 (c) In any action to enforce a spousal support order the
26 action may be pled in the name of the county in the same
27 manner as an action to establish a child support
28 obligation. The same restrictions on joinder of actions,
29 coordination of actions, cross-complaints, and delay
30 because of the pendency of any other action as relates to
31 actions to establish a child support obligation shall also
32 apply to actions to enforce a spousal support order.

33 (d) Nothing contained in this section shall be
34 construed to prevent the parties from bringing an
35 independent action under the Family Code and litigating
36 the issues of support, custody, visitation, or protective
37 orders. In that event, any support, custody, visitation, or
38 protective order issued by the court in an action pursuant
39 to this section shall be filed in the action commenced
40 under the Family Code and shall continue in effect until

1 modified by a subsequent order of the court. To the
2 extent that the orders conflict, the court order last issued
3 shall supersede all other orders and be binding upon all
4 parties in that action.

5 (e) (1) After a support order, including a temporary
6 support order and an order for medical support only, has
7 been entered in an action brought pursuant to this
8 section, the parent who has requested or is receiving
9 support enforcement services of the district attorney shall
10 become a party to the action brought pursuant to this
11 section, only in the manner and to the extent provided by
12 this section, and only for the purposes allowed by this
13 section.

14 (2) Notice of the parent's status as a party shall be
15 given to the parent by the district attorney in conjunction
16 with the notice required by subdivision (e) of Section
17 11478.2. The complaint shall contain this notice. Service
18 of the complaint on the parent in compliance with
19 Section 1013 of the Code of Civil Procedure, or as
20 otherwise provided by law, shall constitute compliance
21 with this section. In all actions commenced under the
22 procedures and forms in effect on or before December 31,
23 1996, the parent who has requested or is receiving
24 support enforcement services of the district attorney shall
25 not become a party to the action until he or she is joined
26 as a party pursuant to an ex parte application or noticed
27 motion for joinder filed by the district attorney or a
28 noticed motion filed by either parent. The district
29 attorney shall serve a copy of any order for joinder of a
30 parent obtained by the district attorney's application on
31 both parents in compliance with Section 1013 of the Code
32 of Civil Procedure.

33 (3) The parent who has requested or is receiving
34 support enforcement services of the district attorney is a
35 party to an action brought under this section for issues
36 relating to the support, custody, and visitation of a child,
37 and for restraining orders, and for no other purpose. The
38 district attorney shall not be required to serve or receive
39 service of papers, pleadings, or documents, or participate
40 in, or attend any hearing or proceeding relating to issues



1 of custody or visitation, except as otherwise required by
2 law. Orders concerning custody and visitation may be
3 made in an action pursuant to this subdivision only if
4 orders concerning custody and visitation have not been
5 previously made by a court of competent jurisdiction in
6 this state or another state and the court has jurisdiction
7 and is the proper venue for custody and visitation
8 determinations. All issues regarding custody and
9 visitation shall be heard and resolved in the manner
10 provided by the Family Code. Except as otherwise
11 provided by law, the district attorney shall control
12 support and parentage litigation brought pursuant to this
13 section, and the manner, method, and procedures used in
14 establishing parentage and in establishing and enforcing
15 support obligations unless and until the parent who
16 requested or is receiving support enforcement services
17 has requested in writing that the district attorney close his
18 or her case and the case has been closed in accordance
19 with federal regulation.

20 (f) (1) A parent who has requested or is receiving
21 support enforcement services of the district attorney may
22 take independent action to modify a support order made
23 pursuant to this section while support enforcement
24 services are being provided by the district attorney. The
25 parent shall serve the district attorney with notice of any
26 action filed to modify the support order and provide the
27 district attorney with a copy of the modified order within
28 15 calendar days after the date the order is issued.

29 (2) A parent who has requested or is receiving support
30 enforcement services of the district attorney may take
31 independent action to enforce a support order made
32 pursuant to this section while support enforcement
33 services are being provided by the district attorney with
34 the written consent of the district attorney. At least 30
35 days prior to filing an independent enforcement action,
36 the parent shall provide the district attorney with written
37 notice of the parent's intent to file an enforcement action
38 that includes a description of the type of enforcement
39 action the parent intends to file. Within 30 days of
40 receiving the notice, the district attorney shall either

1 provide written consent for the parent to proceed with
2 the independent enforcement action or notify the parent
3 that the district attorney objects to the parent filing the
4 proposed independent enforcement action. The district
5 attorney may object only if the district attorney is
6 currently using an administrative or judicial method to
7 enforce the support obligation or if the proposed
8 independent enforcement action would interfere with an
9 investigation being conducted by the district attorney. If
10 the district attorney does not respond to the parent's
11 written notice within 30 days, the district attorney shall
12 be deemed to have given consent.

13 (3) The court shall order that all payments of support
14 shall be made to the district attorney in any action filed
15 under this section by the parent who has requested, or is
16 receiving, support enforcement services of the district
17 attorney unless support enforcement services have been
18 terminated by the district attorney by case closure as
19 provided by federal law. Any order obtained by a parent
20 prior to support enforcement services being terminated
21 in which the district attorney did not receive proper
22 notice pursuant to this section shall be voidable upon the
23 motion of the district attorney.

24 (g) Any notice from the district attorney requesting a
25 meeting with the support obligor for any purpose
26 authorized under this section shall contain a statement
27 advising the support obligor of his or her right to have an
28 attorney present at the meeting.

29 (h) For the purpose of this section, "a parent who is
30 receiving support enforcement services" includes a
31 parent who has assigned his or her rights to support
32 pursuant to Section 11477.

33 (i) The Judicial Council shall develop forms to
34 implement this section. These forms shall be available no
35 later than July 1, 1998.

36 *SEC. 3. Section 11477.03 is added to the Welfare and*
37 *Institutions Code, to read:*

38 *11477.03. (a) In any action where support has been*
39 *assigned pursuant to Section 11477, the district attorney*
40 *and the obligor may stipulate to an order that suspends*

1 *the accrual of interest, subject to all of the following*
2 *conditions:*

3 *(1) The obligor shall be required to make immediate*
4 *payment of all outstanding, unassigned child support*
5 *arrearages.*

6 *(2) The obligor shall be required to make specified*
7 *monthly payments toward assigned child support*
8 *arrearages, with each monthly payment to be not less*
9 *than 2 percent of all assigned support owed by the obligor*
10 *at the time the agreement is made.*

11 *(3) The obligor shall be required to meet all current*
12 *child support payment obligations.*

13 *(b) If an obligor who is a party to an agreement*
14 *entered into pursuant to subdivision (a) fails to meet any*
15 *of the conditions required by that agreement, interest*
16 *shall begin to accrue on any outstanding support*
17 *obligations.*

